

FILED

2006 MAY 26 AM 10: 29

CLEVELAND

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN J. GROOVER,

Defendant.

INFORMATION

4:06CR0264  
CR. NO.

Title 26, United States Code  
Section 7212(a)

**JUDGE BOYKO**

The United States Attorney charges:

**MAG. JUDGE BAUGHMAN**

From approximately January 1, 2000, through March 4, 2005, the exact dates to the United States Attorney unknown, in the Northern District of Ohio, Eastern Division, the defendant, BRIAN J. GROOVER, a resident of Girard, Ohio, did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws (Title 26, United States Code) as follows:

1. At all relevant times, the defendant was the sole shareholder and principal officer and operator of Groover Roofing & Siding, Inc., a corporation with its principal place of business in Girard, Ohio. The defendant elected to treat Groover Roofing & Siding, Inc., as a Subchapter S corporation ("S Corporation") for federal income tax purposes.

2. Under the internal revenue laws, the defendant, as owner and principal officer of Groover Roofing & Siding, was responsible for and on behalf of the corporation, on a quarterly basis, to collect, account for, and pay over to the Internal Revenue Service (IRS), Federal Insurance Contributions Act (F.I.C.A.) taxes ("payroll taxes") which the corporation was required to withhold from the taxable wages of the corporation's employees and to report and pay F.I.C.A. excise taxes owing by the corporation on those wages. The F.I.C.A. taxes and F.I.C.A. excise taxes (commonly referred to as the "employees' share" and "employer's share," respectively), along with income tax withholdings, are also jointly referred to as "employment taxes." Employers were required to report their employment tax obligations on an Employer's Quarterly Federal Tax Return, Form 941. The internal revenue laws also required employers to provide each employee and to file with the government a Form W-2, Wage and Tax Statement, at the close of each year, reporting the employee's wages and tax withholdings.

3. The defendant employed a number of workers at Groover Roofing & Siding, including himself, under arrangements by which he paid all or a portion of their wages in currency, with no withholding of taxes (also referred to herein as "cash payroll" or "under-the-table payroll"), as follows:

a. The defendant paid some workers totally in currency, without any withholdings. At the end of the year, he did not provide such workers or the IRS any form to reflect their wages or employment taxes owing.

b. The defendant paid other employees a portion of their wages in currency, without tax withholdings, and the rest by check. At the end of the year, he provided such

employees a Form W-2 and/or a Form 1099 reporting the portion of their compensation paid by check.

4. The defendant failed to deposit a portion of his gross receipts received in currency from roofing and siding work, and used that currency to pay his under-the-table payroll. At the end of each of the years 2000 through 2004, he caused a corporate income tax return to be prepared for Groover Roofing & Siding, on Form 1120S, U.S. Income Tax Return for an S Corporation, which understated the gross receipts and the payroll expenses by the amount of the under-the-table payroll for the year.

5. At the end of each of the years 2000 through 2004, the defendant caused Groover Roofing & Siding to issue a Form W-2, Wage and Tax Statement, only to each employee paid by payroll check, with tax withholdings, reporting only the portion of the employee's pay for which taxes were withheld. He also issued a Form 1099-MISC, Miscellaneous Income, statement to each employee who received some wages by check as a 1099 independent contractor, reflecting such check compensation. The defendant then caused Groover Roofing & Siding to file with the IRS copies of the W-2 forms and 1099-MISC forms, separately with the yearly transmittal form applicable to each, knowing that the forms did not include the wages paid through the cash payroll.

6. The defendant caused Groover Roofing & Siding to file an Employer's Quarterly Federal Tax Return, Form 941, for each calendar quarter during the years 2000 through 2004, each of which, as he then knew, falsely understated the amount of wages paid and employment taxes owing with respect to the corporation's taxable wages, by reporting only the wages of the

employees the corporation paid by check with deductions for tax withholdings. Groover Roofing & Siding remitted to the Internal Revenue Service employment tax payments matching the amounts reported on those quarterly tax returns.

7. As a result of the foregoing conduct, the defendant caused Groover Roofing & Siding to report and pay employment taxes in amounts which understated the true amount of taxes owing, in the approximate amounts listed below. Because the defendant discarded payroll records for years prior to 2004, the amounts listed for the years 2000 through 2003 are estimates.

<u>Year</u>	<u>Unreported Wages</u>	<u>Unreported Employment Taxes</u>
2000	\$126,000	\$19,278
2001	\$168,000	\$25,704
2002	\$210,000	\$32,130
2003	\$252,000	\$38,556
2004	<u>\$411,350</u>	<u>\$62,937</u>
Total	\$1,167,350	\$178,605

In violation of Title 26, Section 7212(a), United States Code.

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GREGORY A. WHITE  
United States Attorney